

109TH CONGRESS
1ST SESSION

S. 961

To amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize and reform the Abandoned Mine Reclamation Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 28, 2005

Mr. ROCKEFELLER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize and reform the Abandoned Mine Reclamation Program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Abandoned Mine Land
5 Reclamation Reform Act of 2005”.

6 **SEC. 2. AMENDMENTS TO SURFACE MINING ACT.**

7 (a) AMENDMENTS TO SECTION 401.—(1) Section
8 401 of the Surface Mining Control and Reclamation Act
9 of 1977 (30 U.S.C. 1231) is amended as follows:

1 (A) In subsection (c) by striking paragraphs (2)
 2 and (6) and redesignating paragraphs (3) through
 3 (13) in order as paragraphs (2) through (11).

4 (B) In subsection (e)—

5 (i) in the second sentence, by striking “the
 6 needs of such fund” and inserting “achieving
 7 the purposes of the transfers under section
 8 402(h)”; and

9 (ii) in the third sentence, by inserting be-
 10 fore the period the following: “for the purpose
 11 of the transfers under section 402(h)”.

12 (2) Section 712(b) of the Surface Mining Control and
 13 Reclamation Act of 1977 (30 U.S.C. 1302(b)) is amended
 14 by striking “section 401(c)(11)” and inserting “section
 15 401(c)(9)”.

16 (b) AMENDMENTS TO SECTION 402.—Section 402 of
 17 the Surface Mining Control and Reclamation Act of 1977
 18 (30 U.S.C. 1232) is amended as follows:

19 (1) In subsection (b) by striking “2005” and all
 20 that follows through the end of the sentence and in-
 21 serting “2019.”.

22 (2) In subsection (g)(1)(D) by striking “in any
 23 area under paragraph (2), (3), (4), or (5)” and in-
 24 serting “under paragraph (5)”.

1 (3) Subsection (g)(2) is amended to read as fol-
 2 lows:

3 “(2) In making the grants referred to in paragraph
 4 (1)(C) and the grants referred to in paragraph (5), the
 5 Secretary shall ensure strict compliance by the States and
 6 Indian tribes with the priorities set forth in section 403(a)
 7 until a certification is made under section 411(a).”.

8 (4) In subsection (g)(3)—

9 (A) in the matter preceding subparagraph
 10 (A) by striking “paragraphs (2) and” and in-
 11 serting “paragraph”;

12 (B) in subparagraph (A) by striking
 13 “401(c)(11)” and inserting “401(c)(9)”; and

14 (C) by adding at the end the following:

15 “(E) For the purpose of paragraph (8).”.

16 (5) In subsection (g)(5)—

17 (A) by inserting “(A)” before the first sen-
 18 tence;

19 (B) in the first sentence by striking “40”
 20 and inserting “60”;

21 (C) in the last sentence by striking “Funds
 22 allocated or expended by the Secretary under
 23 paragraphs (2), (3), or (4),” and inserting
 24 “Funds made available under paragraph (3) or
 25 (4)”; and

1 (D) by adding at the end the following:

2 “(B) Any amount that is reallocated and available
3 under section 411(h)(3) shall be in addition to amounts
4 that are allocated under subparagraph (A).”.

5 (6) Subsection (g)(6) is amended to read as fol-
6 lows:

7 “(6)(A) Any State with an approved abandoned mine
8 reclamation program pursuant to section 405 may receive
9 and retain, without regard to the 3-year limitation re-
10 ferred to in paragraph (1)(D), up to 10 percent of the
11 total of the grants made annually to such State under
12 paragraphs (1) and (5) if such amounts are deposited into
13 an acid mine drainage abatement and treatment fund es-
14 tablished under State law, from which amounts (together
15 with all interest earned on such amounts) are expended
16 by the State for the abatement of the causes and the treat-
17 ment of the effects of acid mine drainage in a comprehen-
18 sive manner within qualified hydrologic units affected by
19 coal mining practices.

20 “(B) For the purposes of this paragraph, the term
21 ‘qualified hydrologic unit’ means a hydrologic unit—

22 “(i) in which the water quality has been signifi-
23 cantly affected by acid mine drainage from coal min-
24 ing practices in a manner that adversely impacts bi-
25 ological resources; and

1 “(ii) that contains lands and waters that are—

2 “(I) eligible pursuant to section 404 and
3 include any of the priorities set forth in section
4 403(a); and

5 “(II) the subject of expenditures by the
6 State from the forfeiture of bonds required
7 under section 509 or from other States sources
8 to abate and treat acid mine drainage.”.

9 (7) Subsection (g)(7) is amended to read as fol-
10 lows:

11 “(7) In complying with the priorities set forth in sec-
12 tion 403(a), any State or Indian tribe may use amounts
13 available in grants made annually to such State or tribe
14 under paragraphs (1) and (5) for the reclamation of eligi-
15 ble lands and waters set forth in section 403(a)(3) prior
16 to the completion of reclamation projects under para-
17 graphs (1) and (2) of section 403(a) only if the expendi-
18 ture of funds for such reclamation is done in conjunction
19 with the expenditure of funds for reclamation projects
20 under paragraphs (1) and (2) of section 403(a).”.

21 (8) Subsection (g)(8) is amended to read as fol-
22 lows:

23 “(8) In making the grants referred to in paragraph
24 (1)(C), the Secretary, using amounts allocated to a State
25 or Indian tribe under subparagraphs (A) or (B) of para-

1 graph (1) or as necessary amounts available to the Sec-
 2 retary under paragraph (3), shall assure total grant
 3 awards of not less than \$2,000,000 annually to each State
 4 and each Indian tribe. Notwithstanding any other provi-
 5 sion of law, this paragraph applies to the State of Ten-
 6 nessee.”.

7 (9) Subsection (h) is amended to read as fol-
 8 lows:

9 “(h) IN GENERAL.—(1) In the case of any fiscal year
 10 beginning on or after October 1, 2004, the Secretary shall,
 11 as of the beginning of such fiscal year and before any allo-
 12 cation under subsection (g), make the transfers provided
 13 in paragraph (2).

14 “(2) AMOUNT.—The Secretary shall transfer to the
 15 United Mine Workers of America Combined Benefit Fund,
 16 to the United Mine Workers of America 1992 Benefit
 17 Plan, and to the multiemployer health benefit plan estab-
 18 lished after July 20, 1992, by the parties that are the set-
 19 tlers of the 1992 Plan, for any fiscal year from the interest
 20 which the Secretary estimates will be earned and paid to
 21 the fund during the fiscal year an amount equal to the
 22 sum of—

23 “(A) the amount described in paragraph 3(A);

24 “(B) the amount described in paragraph 3(B);

25 plus

1 “(C) the amount described in paragraph 3(C).

2 “(3) LIMITATION.—The aggregate amount which
3 may be transferred under paragraph (2) for any fiscal
4 year shall not exceed—

5 “(A) the amount which the trustees of the
6 Combined Fund estimate will be expended from the
7 premium accounts maintained by such Fund for the
8 fiscal year of the Combined Fund in which the
9 transfer is made, less the amount which the trustees
10 estimate the Combined Fund will receive during
11 such fiscal year in required health benefit premiums;
12 plus

13 “(B) the amount which the trustees of the 1992
14 Plan estimate will be expended from the 1992 Plan
15 during the next calendar year to provide the benefits
16 required by such Plan on the date of enactment of
17 this Act, less the amount which the trustees estimate
18 the 1992 Plan will receive during such calendar year
19 in required monthly per beneficiary premiums, in-
20 cluding the amount of any security provided to the
21 1992 Plan which is available for use in the provision
22 of benefits; plus

23 “(C) the amount which the trustees of the mul-
24 tiemployer health benefit plan established after July
25 20, 1992, by the parties that are the settlors of the

1 1992 Plan estimate will be expended from such plan
2 during the next calendar year, to provide benefits no
3 greater than those provided by such plan on the date
4 of enactment of this subparagraph, less the amount
5 of income which such trustees estimate such plan
6 will receive during such calendar year.

7 “(4) ADJUSTMENT.—If, for any fiscal year, the
8 amount transferred to the Combined Fund, or the 1992
9 Plan, or to the plan described in paragraph (3)(C) is more
10 or less than the amount required to be transferred, the
11 Secretary shall appropriately adjust the amount trans-
12 ferred for the next fiscal year.

13 “(5)(A) The Secretary may make a transfer under
14 subparagraphs (B) and (C) of paragraph (2) for a fiscal
15 year only if the Secretary determines, using actuarial pro-
16 jections provided by the trustees of the Combined Fund,
17 that amounts will be available under paragraph (1), after
18 such transfer, for the next fiscal year for making the
19 transfer under paragraph (2)(A).

20 “(B) A transfer under paragraph (2)(C) shall not be
21 made unless the entities that are obligated to contribute
22 to the plan described in paragraph 3(C) on the date of
23 the transfer are obligated to make such contributions at
24 rates that are no less than those in effect on the date of
25 enactment of this paragraph.”.

1 (c) AMENDMENTS TO SECTION 403.—Section 403 of
 2 the Surface Mining Control and Reclamation Act of 1977
 3 (30 U.S.C. 1233) is amended as follows:

4 (1) In subsection (a)—

5 (A) in paragraph (1), by striking “general
 6 welfare,”;

7 (B) in paragraph (2), by striking “health,
 8 safety, and general welfare” and inserting
 9 “health and safety”, and inserting “and” after
 10 the semicolon at the end;

11 (C) in paragraph (3), by striking the semi-
 12 colon at the end and inserting a period; and

13 (D) by striking paragraphs (4) and (5).

14 (2) In subsection (b)—

15 (A) by striking the heading and inserting
 16 “**WATER SUPPLY RESTORATION.—**”; and

17 (B) in paragraph (1) by striking “up to 30
 18 percent of the”.

19 (3) In subsection (c), by inserting “, subject to
 20 the approval of the Secretary,” after “amendments”.

21 (d) AMENDMENT TO SECTION 406.—Section 406(h)
 22 of the Surface Mining Control and Reclamation Act of
 23 1977 (30 U.S.C. 1236(h)) is amended by striking “Soil
 24 Conservation Service” and inserting “Natural Resources
 25 Conservation Service”.

1 (e) FURTHER AMENDMENT TO SECTION 406.—Sec-
 2 tion 406 of the Surface Mining Control and Reclamation
 3 Act of 1977 (30 U.S.C. 1236) is amended by adding at
 4 the end the following:

5 “(i) There is authorized to be appropriated to the
 6 Secretary of Agriculture, from amounts in the Treasury
 7 other than amounts in the fund, such sums as may be
 8 necessary to carry out this section.”.

9 (f) AMENDMENT TO SECTION 408.—Section 408(a)
 10 of the Surface Mining Control and Reclamation Act of
 11 1977 (30 U.S.C. 1238(a)), is amended by striking “who
 12 owned the surface prior to May 2, 1977, and”.

13 (g) AMENDMENTS TO SECTION 411.—Section 411(a)
 14 of the Surface Mining Control and Reclamation Act of
 15 1977 (30 U.S.C. 1240a(a)) is amended—

16 (1) by inserting “(1)” before the first sentence;
 17 and

18 (2) by adding at the end the following:

19 “(2) The Secretary may, on the Secretary’s own voli-
 20 tion, make the certification referred to in paragraph (1)
 21 on behalf of any State or Indian tribe referred to in para-
 22 graph (1) if on the basis of the inventory referred to in
 23 section 403(c) all reclamation projects relating to the pri-
 24 orities set forth in section 403(a) for eligible lands and
 25 water pursuant to section 404 in such State or tribe have

1 been completed. The Secretary shall only make such cer-
 2 tification after notice in the Federal Register and oppor-
 3 tunity for public comment.”.

4 (h) EXTENSION OF LIMITATION ON APPLICATION OF
 5 PROHIBITION ON ISSUANCE OF PERMIT.—Section 510(e)
 6 of the Surface Mining Control and Reclamation Act of
 7 1977 (30 U.S.C. 1260(e)) is amended by striking “2004”
 8 and inserting “2019”.

9 **SEC. 3. PROVISIONS RELATING TO THE IMPLEMENTATION**
 10 **OF THIS TITLE.**

11 (a) TRANSITION RULES.—(1) Amounts allocated
 12 under section 402(g)(2) of the Surface Mining Control
 13 and Reclamation Act of 1977 (30 U.S.C. 1232(g)(2)) (ex-
 14 cluding interest) prior to the date of enactment of this
 15 Act for the program set forth under section 406 of that
 16 Act (30 U.S.C. 1236), but not appropriated prior to such
 17 date, shall be available in fiscal year 2004 and thereafter
 18 for the transfers referred to in section 402(h) of such Act
 19 (30 U.S.C. 1232(h)), as amended by this Act, in the same
 20 manner as are other amounts available for such transfers.

21 (2) Notwithstanding any other provision of law, inter-
 22 est credited to the fund established by section 401 of the
 23 Surface Mining Control and Reclamation Act of 1977 (30
 24 U.S.C. 1231) that is not transferred to the Combined
 25 Benefit Fund referred to in section 402(h) of such Act

1 (30 U.S.C. 1232(h)), as amended by this Act, prior to the
2 date of enactment of this Act shall be available in fiscal
3 year 2004 and thereafter for transfer to the Combined
4 Fund, and shall be used, notwithstanding any other provi-
5 sion of law, to pay the amount of any deficit in net assets
6 in the Combined Fund.

7 (b) INVENTORY.—Within 1 year after the date of en-
8 actment of this Act, the Secretary of the Interior shall
9 complete a review of all additions made, pursuant to
10 amendments offered by States and Indian tribes after De-
11 cember 31, 1998, to the inventory referred to in section
12 403(c) of the Surface Mining Control and Reclamation
13 Act of 1977 (30 U.S.C. 1233(c)) to ensure that such addi-
14 tions reflect eligible lands and waters pursuant to section
15 404 of such Act (30 U.S.C. 1234) that meet the priorities
16 set forth in paragraphs (1) and (2) of section 403(a) of
17 such Act (30 U.S.C. 1233(a)), and are correctly identified
18 pursuant to such priorities. Any lands or waters that were
19 included in the inventory pursuant to the general welfare
20 standard set forth in section 403(a) of such Act (30
21 U.S.C. 1233(a)) before the date of enactment of this Act
22 that are determined in the review to no longer meet the
23 criteria set forth in paragraphs (1) and (2) of section

- 1 403(a) of such Act, as amended by this Act, shall be re-
- 2 moved from the inventory.

